

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

BRUCE SUNDHEIM, as Special
Administrator of the Estate of
JACQUELINE SUNDHEIM, deceased,

Plaintiff,

v.

SMITH & WESSON BRANDS, INC.,
SMITH & WESSON SALES COMPANY,
SMITH & WESSON, INC.,
BUDSGUNSHOP.COM, LLC, RED DOT
ARMS, INC., ROBERT CRIMO, JR., and
ROBERT CRIMO III,

Defendants.

No. 1:22-cv-6178

Hon. Virginia M. Kendall

**SMITH & WESSON DEFENDANTS' UNOPPOSED MOTION TO MODIFY ORDER
EXTENDING TIME TO ANSWER OR OTHERWISE RESPOND TO CONFORM WITH
RESPONSE DATE OF EARLIEST FILED AND OTHER RELATED CASES**

Defendants Smith & Wesson Brands, Inc., Smith & Wesson Sales Company, and Smith & Wesson, Inc. (collectively, "Smith & Wesson" or "Smith & Wesson Defendants") previously filed unopposed motions to extend the time to answer in this case and 11 other related and virtually identical cases. Judge Steven Seeger, presiding over the first-filed case (*Roberts v. Smith & Wesson Brands, Inc.*, Case No. 1:22-cv-6169), entered an order requiring Defendants to file responsive pleadings by the later of (1) January 6, 2023 or (2) 21 days after entry of an order resolving the plaintiffs' motion to remand. Smith & Wesson has since filed a motion before Judge Seeger (also unopposed by the plaintiffs) to reassign the 11 other related cases (including this case) and to consolidate for preliminary motions purposes. Smith & Wesson now respectfully moves this Court (and is filing similar unopposed motions in the other related cases) to further modify the due date for all defendants to answer or otherwise respond to the complaint to conform with the schedule

set by Judge Seeger in the first-filed case—requiring all defendants to file responsive pleadings by the later of (1) January 6, 2023 or (2) 21 days after entry of an order resolving Plaintiff's motion to remand. In support, Smith & Wesson states:

1. The Complaint in this case is virtually identical to eleven other complaints filed against the same group of defendants in the Nineteenth Judicial Circuit Court in Lake County, Illinois, and timely removed to this Court by Smith & Wesson. *Roberts v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6169 (*Roberts*); *Rodriguez v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6185 (*Rodriguez*); *Bennett v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6171 (*Bennett*); *Straus v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6181 (*Straus*); *Tenorio v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6186 (*Tenorio*); *Vergara v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6190 (*Vergara*); *Toledo v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6191 (*Toledo*); *Zeifert v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6193 (*Zeifert*); *Sedano v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6183 (*Sedano*); *Turnipseed v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6359 (*Turnipseed*); and *Chupack v. Smith & Wesson Brands, Inc.*, No. 1:22-cv-6361 (*Chupack*).¹

2. Counsel for all plaintiffs in all 12 related cases have now indicated that they intend to file a motion to remand. Counsel for the plaintiffs in this case, as well as in *Roberts*, *Bennett*, *Straus*, *Sedano*, *Rodriguez*, *Tenorio*, *Vergara*, *Toledo*, and *Zeifert*, have represented that they will do so by December 7, 2022.

3. Smith & Wesson, with the plaintiffs' consent, moved in each case to extend the time to respond or otherwise answer until the later date of (1) 21 days after the plaintiffs' deadline

¹ The *Turnipseed* and *Chupack* cases name Smith & Wesson Brands, Inc., a defendant in this case, and American Outdoor Brands Corp. (which is the former name of Smith & Wesson Brands, Inc.), as defendants, but the claims against them are virtually identical to those filed in the other ten cases.

to move to remand or (2) 21 days following an order on any motion to remand. Judge Seeger, presiding over the first-filed *Roberts* case, granted Smith & Wesson's motion for an extension of time and extended the time to the later date of (1) January 6, 2023—which was 9 more days than requested, due to the winter holidays—or (2) if the plaintiffs move to remand and the court denies that motion, within 21 days after that ruling. (*See Roberts* ECF 14.) Courts in the remaining 11 cases have issued orders requiring responsive pleadings to be filed at varying dates. This Court ordered the Smith & Wesson Defendants to file their responsive pleadings by December 7, 2022 (ECF 11), and ordered Defendants Budsgunshop.com, LLC and Red Dot Arms, Inc. to file their responsive pleadings by December 28, 2022. (ECF 17.)

4. Also with the plaintiffs' consent, Smith & Wesson, on November 17, 2022, filed in *Roberts* a Motion for Reassignment of Related Cases and Consolidation for Preliminary Motion Purposes ("Motion for Reassignment") to reassign and consolidate all twelve related cases before Judge Seeger.² (*Roberts* ECF 23.) Judge Seeger has not yet ruled on the Motion for Reassignment.

5. The Court may "for good cause" extend a deadline "if a request is made, before the original time or its extension expires." Fed. R. Civ. P. 6(b)(1)(A). The Court has "wide discretion" to grant such extensions. *Irorere v. United States*, 2002 WL 31688817, at *2 (N.D. Ill. Nov. 26, 2002). "[J]udicial efficiency may constitute 'good cause' for an extension of time." *White v. Marshall*, 2009 WL 230096, at *2 (E.D. Wisc. Jan. 30, 2009).

6. In the interest of efficiency, in light of the Motion for Reassignment pending in *Roberts* and the plaintiffs' representation that they will be moving to remand (with at least ten of

² Smith & Wesson also secured consent for the Motion for Reassignment from Defendant Red Dot Arms, Inc. Smith & Wesson's counsel contacted counsel for the remaining defendants to seek consent to the relief requested, but they have not yet responded as of the date of this filing.

those motions being filed by December 7, 2022), Smith & Wesson seeks a ruling extending its responsive pleading deadline for all defendants to be consistent with the deadline set in *Roberts*.

7. Smith & Wesson conferred with Plaintiff's counsel who confirmed that they do not oppose the relief requested in this motion, and that the revised schedule should apply to all defendants. Counsel for Defendants Budsgunshop.com, LLC and Red Dot Arms, Inc. have similarly confirmed their agreement with this motion.

Wherefore, Smith & Wesson respectfully requests that the Court extend time for Smith & Wesson (and for all defendants) to answer or otherwise respond to the Complaint until the later of (1) January 6, 2023, or (2) 21 days following any order resolving Plaintiff's motion to remand.

Respectfully submitted,

Dated: November 22, 2022

By: /s/ Kenneth L. Schmetterer

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CERTIFICATE OF SERVICE

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